

## **PART 3369—NONPROCUREMENT DEBARMENT AND SUSPENSION**

Sec.

3369.10 What does this part do?

3369.20 Does this part apply to me?

3369.30 What policies and procedures must I follow?

### **Subpart A—General**

3369.137 Who in the NEH may grant an exception to let an excluded person participate in a covered transaction?

### **Subpart B—Covered Transactions**

3369.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

### **Subpart C—Responsibilities of Participants Regarding Transactions**

3369.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

### **Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**

3369.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

### **Subparts E–I [Reserved]**

AUTHORITY: 20 U.S.C. 959(a)(1); Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

SOURCE: 72 FR 9236, Mar. 1, 2007, unless otherwise noted.

#### **§ 3369.10 What does this part do?**

This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Endowment for the Humanities (NEH) policies and procedures for nonprocurement debarment and suspension. It thereby gives regulatory effect for the NEH to the OMB guidance as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note

(Section 2455, Public Law 103–355, 108 Stat. 3327).

#### **§ 3369.20 Does this part apply to me?**

This part and, through this part, pertinent portions of the OMB guidance in subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970).

(b) Respondent in a NEH suspension or debarment action.

(c) NEH debarment or suspension official;

(d) NEH grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction;

#### **§ 3369.30 What policies and procedures must I follow?**

The NEH policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.*, § 3369.220). For any section of OMB guidance in subparts A through I of 2 CFR 180 that has no corresponding section in this part, NEH policies and procedures are those in the OMB guidance.

### **Subpart A—General**

#### **§ 3369.137 Who in the NEH may grant an exception to let an excluded person participate in a covered transaction?**

The NEH Chairman has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

## § 3369.220

### Subpart B—Covered Transactions

**§ 3369.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in the appendix to 2 CFR part 180), NEH does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

### Subpart C—Responsibilities of Participants Regarding Transactions

**§ 3369.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

### Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

**§ 3369.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

### Subparts E–I [Reserved]

## 2 CFR Ch. XXXIII (1–1–12 Edition)

### PART 3373—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Sec.

3373.10 What does this part do?

3373.20 Does this part apply to me?

3373.30 What policies and procedures must I follow?

#### Subpart A—Purpose and Coverage [Reserved]

#### Subpart B—Requirements for Recipients Other Than Individuals

3373.225 Whom in the NEH does a recipient other than an individual notify about a criminal drug conviction?

#### Subpart C—Requirements for Recipients Who Are Individuals

3373.300 Whom in the NEH does a recipient who is an individual notify about a criminal drug conviction?

#### Subpart D—Responsibilities of Agency Awarding Officials

3373.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

#### Subpart E—Violations of This Part and Consequences

3373.500 Who in the NEH determines that a recipient other than an individual violated the requirements of this part?

3373.505 Who in the NEH determines that a recipient who is an individual violated the requirements of this part?

#### Subpart F—Definitions [Reserved]

AUTHORITY: 41 U.S.C. 701–707.

SOURCE: 75 FR 52858, Aug. 30, 2010, unless otherwise noted.

#### § 3373.10 What does this part do?

This part requires that the award and administration of NEH grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereafter referred to as “the Act”) that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (Subparts A through F